

EDWARD A. TREDER
State Bar No. 116307
MASUMI J. PATEL
State Bar No. 233921
BARRETT DAFFIN FRAPPIER
TREDER & WEISS, LLP
20955 Pathfinder Road, Suite 300
Diamond Bar, California 91765
(626) 915-5714 – Phone
(626) 915-0289 – Fax
masumijp@bdfgroup.com
File No.: 20100134003724

Attorneys for Defendant NDeX WEST, LLC

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ALI SHAPOURI and LAURA AMANDA
SHAPOURI

Plaintiffs.

NDeX WEST, LLC, a Delaware Limited Liability Corporation; WELLS FARGO BANK, N.A., dba AMERICA'S SERVICING COMPANY; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., a Delaware Corporation; and DOES 1-100, INCLUSIVE.

Defendants

CASE NO. 3:11-cv-01699-W-MDD

Assigned to the Hon. Thomas J. Whelan

**DEFENDANT NDEX WEST, LLC'S
RESPONSE TO PLAINTIFF'S
MOTION TO SET ASIDE
JUDGMENT**

DATE: September 10, 2012
DEPT: 7

**NO ORAL ARGUMENT PURSUANT
TO LOCAL RULE 7.1(d)(1)**

Defendant NDeX WEST, LLC (“NDeX”) hereby responds to Plaintiffs ALI SHAPOURI’s and LAURA AMANDA SHAPOURI’s (“Plaintiffs”) Motion To Set Aside Judgment (“Motion.”)

Plaintiffs bring this motion based on their attorneys' failure to file an Opposition to Defendants WELLS FARGO BANK's and MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.'s (collectively as "Defendants") Motion to Dismiss. Plaintiffs allege the Motion should be granted because due to their counsel's "mistake, inadvertence, surprise, or excusable negligent" their counsel did not receive a copy of Defendants' Motion to Dismiss. As a result, they were unaware of Defendants' Motion and did not know Defendants had filed such a Motion until receiving this Court's Judgment. Importantly, Plaintiffs admit they received and opposed NDeX's Motion to Dismiss.

NDeX has no opposition to Plaintiffs' Motion as it pertains to the Defendants. Should the Court be inclined to grant Plaintiffs the requested relief, NDeX respectfully requests the Judgment be set aside as to Defendants only and not to NDeX.

Date: August 10, 2012

By: /s/ *Masumi J Patel*

MASUMI J. PATEL, Attorneys for
Defendant NDeX WEST, LLC

CERTIFICATE OF SERVICE

I, the undersigned, declare that I am over the age of 18 and am not a party to this action. I am employed in the city of Diamond Bar, California; my business address is 20599 Pathfinder Road; Ste 300; Diamond Bar, CA., County of Los Angeles.

On the date below, I served a copy of the following document(s):

**DEFENDANT NDEX WEST, LLC'S REQUEST TO APPEAR TELEPHONICALLY AT THE
MOTIONS TO DISMISS PLAINTIFF'S SECOND AMEND COMPLAINT**

on all interested parties in said case addressed as follows:

Served Via EM/CF Filing System

Attorney for Plaintiffs

Veronica M. Aguilar (veronica@vaguilarlaw.com)
Law Offices of Veronica M. Aguilar
402 West Broadway, Ste 1900
San Diego, CA 92101

Attorney for Defendant

Wells Fargo Bank, NA

Mortgage Electronic Registration Systems, Inc.
Mark G. Rackers (mrackers@sheppardmullin.com)
Sheppard Mullin Richter & Hampton, LLP
501 West Broadway, 19th Floor
San Diego, CA 92101

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. This declaration is executed in Pasadena, California, on **August 10, 2012**.

JC Lewis, Jr.